

(End of agreement)

(g) The submitter of any proposal shall be provided notice adequate to afford an opportunity to take appropriate action before release of any information (data) contained therein pursuant to a request under the Freedom of Information Act (5 U.S.C. 552); and, time permitting, the submitter should be consulted to obtain assistance in determining the eligibility of the information (data) in question as an exemption under the Act. (See also 48 CFR 24.2, Freedom of Information Act.)

[63 FR 56851, Oct. 23, 1998, as amended at 74 FR 36363, July 22, 2009; 76 FR 7693, Feb. 11, 2011]

Subpart 915.3—Source Selection

915.305 Proposal evaluation.

(d) Personnel from DOE, other Government agencies, consultants, and contractors, including those who manage or operate Government-owned facilities, may be used in the evaluation process as evaluators or advisors when their services are necessary and available. When personnel outside the Government, including those of contractors who operate or manage Government-owned facilities, are to be used as evaluators or advisors, approval and nondisclosure procedures as required by 915.207–70 shall be followed and a notice of the use of non-Federal evaluators shall be included in the solicitation. In all instances, such personnel will be required to comply with DOE conflict of interest and nondisclosure requirements.

[63 FR 56851, Oct. 23, 1998, as amended at 76 FR 7692, Feb. 11, 2011]

Subpart 915.4—Contract Pricing

915.404 Proposal analysis.

915.404–2 Information to support proposal analysis.

(a)(1) Field pricing assistance as discussed in 48 CFR 15.404–2(a) is not required for the negotiation of DOE contract prices or modifications thereof. The term “field pricing assistance” refers to the Department of Defense (DOD) system for obtaining a price and/or cost analysis report from a cog-

nizant DOD field level contract management office wherein requests for the review of a proposal submitted by an offeror are initiated and the recommendations made by the various specialists of the management office are consolidated into a single report that is forwarded to the office making the contract award for use in conducting negotiations. In the DOE, such review activities, except for reviews performed by professional auditors, are expected to be accomplished by pricing support personnel located in DOE Contracting Activities. The DOE contracting officer shall formally request the assistance of appropriate pricing support personnel, other than auditors, for the review of any proposal that exceeds the threshold stated at 48 CFR 15.403–4(a)(1), unless the contracting officer has sufficient data to determine the reasonableness of the proposed cost or price. Such pricing support may be requested for proposals below the threshold stated at 48 CFR 15.403–4(a)(1), if considered necessary for the establishment of a reasonable pricing arrangement. Contracting officers, however, are not precluded by this section from requesting pricing assistance from a cognizant DOD contract management office, provided an appropriate cross-servicing arrangement for pricing support services exists between the DOE and the servicing agency.

(c)(1) When an audit is required pursuant to 915.404–2–70, “Audit as an aid in proposal analysis,” the request for audit shall be sent directly to the Federal audit office assigned cognizance of the offeror or prospective contractor. When the cognizant agency is other than the Defense Contract Audit Agency or the Department of Health and Human Services, and an appropriate interagency agreement has not been established, the need for audit assistance shall be coordinated with the Office of Policy, within the Headquarters procurement organization.

(2)(i) The request for audit shall establish the due date for receipt of the auditor’s report and in so doing shall allow as much time as possible for the auditor’s review.

(ii) Copies of technical analysis reports prepared by DOE technical or other pricing support personnel shall